

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO

The Honorable Larry M. Boyle

2024 SEP 27 AM 9:45  
CLERK OF DISTRICT COURT  
JULIE L. HARRIS

POCATELLO DENTAL GROUP, P.C.,  
an Idaho Professional Corporation,

*Plaintiff,*

vs.

INTERDENT SERVICE  
CORPORATION, a Washington  
Corporation,

*Defendant,*

vs.

POCATELLO DENTAL GROUP, P.C.,  
an Idaho Professional Corporation;  
DWIGHT G. ROMRIELL, individually;  
LARRY R. MISNER, JR., individually;  
PORTER SUTTON; individually;  
ERNEST SUTTON; individually;  
GREGORY ROMRIELL; individually;  
ERROL ORMOND; individually; and  
ARNOLD GOODLIFFE; individually;

*Counterdefendant and  
Third-party Defendants.*

Case No. CV-03-450-E-LMB

**PROTECTIVE ORDER  
WITH STIPULATION**

Upon the stipulation of counsel and good cause appearing,

IT IS HEREBY ORDERED that following Protective Order be entered:

1. **Rule 26 Good Faith Designation.** In responding to a discovery request, counsel for a party may *in good faith*, designate any document constituting a (1) "trade secret, confidential research, development, or proprietary commercial information" within

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the meaning of Rule 26(c)(7) and/or (2) "protected health information" under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as "Confidential" by a mark labeling the item "Confidential" or otherwise including that designation on an appropriate cover letter or document sufficient to advise the recipient of the document of the designation.

2. **"Document" Defined.** The word "document" or "documents" as used herein shall mean all paper and any other tangible thing produced in response to a formal or informal discovery request herein.

3. **Disagreement Over Designation.** In the event a recipient of a document declared "Confidential" disagrees with the confidential designation, the proponent of confidentiality shall be so advised in writing by the objecting party and the producing party shall have ten (10) days within which to withdraw the confidential designation or move the Court to make a determination of confidentiality of any document in dispute. Pending such determination by the Court, any document in issue shall continue to be protected pursuant to the provisions of this Order.

4. **General Use of Confidential Documents.** Except as required by law, documents identified as "Confidential" and the confidential information contained therein may be used only for purposes of this case. Provided, however, the designation of a document as "Confidential" shall not operate as a barrier to preclude any counsel of record from the use of such document in depositions or as counsel deems appropriate incidental to his own work product and trial preparation.

5. **Disclosure to Others.** In the event counsel discloses any confidential-designated document to another person as part of counsel's work product and trial preparation, such other person shall be advised and given a copy of this Order and the obligation to maintain confidentiality of the document.

6. **Depositions/Filing of Confidential Documents.** In the event a party seeks to use confidential-protected documents as part of any court filing, or at trial, the procedures set forth in the Idaho District Local Rules, and specifically Local Civil Rule 5.3 shall be complied with. Where confidential-protected documents are used in depositions, or at trial, those portions of the deposition or trial transcripts describing or incorporating any protected materials shall be deemed designated as "Confidential" and entitled to the protections and provisions of this Order.

7. **Inadvertance/Oversight.** Inadvertent production of any protected document shall not constitute a waiver of the right to make an after-the-fact good faith designation. Upon the discovery of such inadvertent production, the producing party shall notify the parties in receipt of the document that it is designated "Confidential." An after-the-fact designation may be made orally on the record in any deposition together with any explanation relative to inadvertance or oversight and shall be honored by all present in the same manner as if originally designated "Confidential."

8. **Admissibility.** The provisions of this Order shall not determine whether and to what extent any document or information is admissible into evidence.

9. **HIPAA/Other Law/Rules Not Affected.** This Order is intended to comply with the HIPAA requirements of 45 CFR § 164.512(e)(1)(v) and shall not be

construed to violate or alter the provisions of any other state or federal law or Rule relative to protecting the confidentiality of information, whether the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations enacted pursuant to HIPAA, the Local Rules of this Court, or otherwise.

10. **Return at Close of Litigation.** Within thirty (30) days of the final resolution of this litigation, a party that has produced any "Confidential" document may request in writing that such be returned or destroyed. Except for documents and/or all copies of documents containing "protected health information" under HIPAA, which must be either returned or destroyed, counsel for a party may retain copies, summaries, abstracts, or excerpts of such material to the extent necessary to substantiate services rendered on behalf of and/or advice given to that party in connection with this action. The confidentiality of any material or information retained by counsel will be preserved.

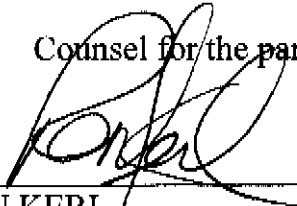
DATED this 24<sup>th</sup> day of September 2004.

BY THE COURT:

  
\_\_\_\_\_  
LARRY M. BOYLE, Magistrate Judge

### **STIPULATION**

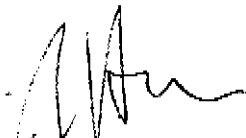
Counsel for the parties stipulate to entry of the foregoing Order.

  
\_\_\_\_\_  
RON KERL


*Counsel for Pocatello Dental Group*

  
\_\_\_\_\_  
SCOTT J. KAPLAN

*Counsel for Defendant InterDent*

  
\_\_\_\_\_  
RICHARD A. HEARN

*Counsel for Third-Party Defendant Misner*

  
\_\_\_\_\_  
LOWELL N. HAWKES

*Counsel for Third-Party Defendants  
Romriell, Ormond & Goodliffe*

United States District Court  
for the  
District of Idaho  
September 27, 2004

\* \* CLERK'S CERTIFICATE OF MAILING \* \*

Re: 4:03-cv-00450

I certify that I caused a copy of the attached document to be mailed or faxed to the following named persons:

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\_\_\_\_ Chief Judge B. Lynn Winmill  
\_\_\_\_ Judge Edward J. Lodge  
✓\_\_\_\_ Chief Magistrate Judge Larry M. Boyle  
\_\_\_\_ Magistrate Judge Mikel H. Williams

Visiting Judges:

\_\_\_\_ Judge David O. Carter  
\_\_\_\_ Judge John C. Coughenour  
\_\_\_\_ Judge Thomas S. Zilly

Cameron S. Burke, Clerk

Date:

9-27-04

BY:

WM

(Deputy Clerk)